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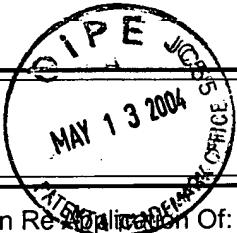
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TRANSMITTAL LETTER
(General - Patent Pending)

Docket No.
03-041

In Re Application Of: **WALKER et al.**

Serial No. 10/619,066	Filing Date July 14, 2003	Examiner Not Yet Assigned	Group Art Unit 3713
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Title: **METHOD AND SYSTEM FOR VIDEO POKER**

TO THE COMMISSIONER FOR PATENTS:

Transmitted herewith is:

- Copy of Decision on Petition mailed March 19, 2004 (3 pp.);
- Renewed Petition Under 37 C.F.R. 1.47(a) (5 pp.);
- Affidavit of Michael D. Brinton (2 pp.); Affidavit of Veronika S. Leliever (1 pg.);
- "EXHIBIT A" (4 pp.); and
- Return Receipt Postcard.

in the above identified application.

- ☒ No additional fee is required.
- ☐ A check in the amount of _____ is attached.
- ☒ The Director is hereby authorized to charge and credit Deposit Account No. **50-0271** as described below.
 - ☐ Charge the amount of _____
 - ☒ Credit any overpayment.
 - ☒ Charge any additional fee required.



Signature

Dated: **May 11, 2004**

Michael D. Downs
Attorney for Applicants
PTO Registration No. 50,252
(203) 461-7292/phone
(203) 461-7300/fax

CUSTOMER NO. 22927
Mdowns@walkerdigital.com

cc:

I certify that this document and fee is being deposited on May 11, 2004 with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
 Signature of Person Mailing Correspondence
Michael D. Brinton Typed or Printed Name of Person Mailing Correspondence

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: WALKER et al.

Serial No.: 10/619,066

Filing Date: July 14, 2003

For: METHOD AND SYSTEM FOR VIDEO
POKER

) Examiner: Not Yet Assigned

) Group Art Unit: 3713

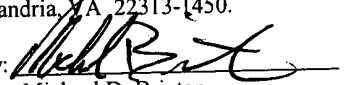
) Attorney Docket No: 03-041

) Customer No.: 22927

) **RENEWED PETITION UNDER 37**
) **C.F.R. 1.47(a)**

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as Priority mail in an envelope with sufficient postage and addressed to: MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: 05/11/04 By: 

Michael D. Brinton

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RENEWED PETITION UNDER 37 C.F.R. 1.47(a)

Sir:

On January 14, 2004, Applicants submitted a Petition Under 37 C.F.R. 1.47 (a) to Request Acceptance of A National Application Without Participation Of One Or More Inventors. The Petition included a declaration of facts, the petition fee of \$130, the associated surcharge of \$65, the last known address of the non-signing inventor, and a fee of \$55 for a one-month extension of time.

In response to Decision on Petition mailed March 19, 2004, Applicants herein request to renew the original petition of January 14, 2004 in order to comply with the requirements set forth under 37 C.F.R. 1.47(a). As noted in the Decision on Petition, Applicants have already satisfied

requirements 2-5 under 37 C.F.R. 1.47 (a). The Petition of January 14, 2004 was dismissed on the grounds that it lacked item 1 under 37 C.F.R. 1.47 (a). In compliance with requirement 1, Applicants submit proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings).

Relevant facts and proof

Applicants filed the present patent application on July 14, 2003. No Oath or Declaration was filed with the application on July 14, 2003.

Victor M. Garcia, an inventor on the present application, is no longer employed by Walker Digital. His last known address was: 315 Willow Street, New Haven, CT 06511.

On or around August 28, 2003, Applicants met with Victor M. Garcia and requested that he execute an Assignment and Declaration for the present case. Applicants provided him with the following: 1) a Copy of the Application with Formal Drawings; 2) Combined Declaration and Power of Attorney; and 3) an Assignment. Victor M. Garcia executed the Assignment. Victor M. Garcia stated that he would not sign the Declaration until he consulted with his attorney. Victor M. Garcia has not called or contacted Applicants since that time. (*Please see AFFIDAVIT OF VERONIKA S. LELIEVER*)

On September 25, 2003, October 30, 2003 and December 1, 2003, Applicants called and left detailed telephone messages for Victor M. Garcia at his last known home telephone number of (203) 624-3536. Applicants requested that Victor M. Garcia return the call to follow up regarding the Declaration presented to him by Veronika S. Leliever on or around August 28, 2003. Applicants provided their contact telephone number in this message. Victor M. Garcia did not return Applicants' call. (*Please see AFFIDAVIT OF MICHAEL D. BRINTON and AFFIDAVIT OF VERONIKA S. LELIEVER*)

On January 14, 2004, Victor M. Garcia placed a telephone call to Applicants. Mr. Garcia indicated to Applicants that he was unwilling to cooperate in signing any documents pertaining

to Walker Digital cases on which he is a named inventor. (*Please see AFFIDAVIT OF MICHAEL D. BRINTON*)

On March 23, 2004, Applicants prepared and sent via certified, return receipt mail to Victor M. Garcia at what was then his last known address: 315 Willow Street, New Haven, CT 06511, a package containing the following documents: 1) Cover letter 2) Copy of Application with Formal Drawings; 3) Combined Declaration and Power of Attorney; 4) Assignment; and 5) Self addressed stamped envelope for return to Applicants. The cover letter included instructions to sign certain documents and return the same to Applicants. The cover letters also included a contact telephone number, should he require assistance. The cover letter further stated that should Applicants not hear from Victor M. Garcia by April 23, 2004, Applicants would construe his conduct as a refusal to sign and proceed with filing the Declaration and Assignment attesting that Victor M. Garcia refused to sign these papers. Victor M. Garcia did not return any of these documents to Applicants, nor did he contact Applicants in any way. (*Please see "EXHIBIT A" and AFFIDAVIT OF MICHAEL D. BRINTON*)

On April 26, 2004, Applicants called and left another detailed telephone message for Victor M. Garcia at his last known home telephone number of (203) 624-3536. Applicants requested that Victor call me to follow up regarding the status of his signature on the Declaration presented to him on or around August 28, 2003, and again mailed to his home on March 23, 2004. Applicants provided their telephone number in this message. Victor M. Garcia did not return Applicants' call. (*Please see AFFIDAVIT OF MICHAEL D. BRINTON and AFFIDAVIT OF VERONIKA S. LELIEVER*)

Finally, on May 3, 2004 Applicants called Victor M. Garcia at his last known home telephone number of (203) 624-3536. Victor M. Garcia answered the telephone. Applicants inquired about the status of the documents presented to him on or around August 28, 2003, and again mailed to his home on March 23, 2004. Victor M. Garcia confirmed receipt of the documents presented to him on or around August 28, 2003, and again mailed to his home on March 23, 2004, but refused to sign the documents. Additionally, he indicated that he is unwilling to

cooperate in signing any documents pertaining to Walker Digital in the future. . (Please see
AFFIDAVIT OF MICHAEL D. BRINTON and AFFIDAVIT OF VERONIKA S. LELIEVER)

Last known address(es) of the non-signing inventor(s)

The latest address of Victor M. Garcia is:

315 Willow Street
New Haven, CT 06511

Oath or Declaration

On January 14, 2004, Applicants filed an oath or declaration signed by all the available
joint inventors with the signature block of the non-signing inventor(s) left blank.


Fees

No fees are believed to be due at this time, since Applicants previously paid the required Petition fee and associated extension of time surcharge on January 14, 2004. Applicants authorize the Commissioner to charge any additional fees that may be required for this Petition, or credit any overpayment to Deposit Account No. 50-0271.

If an extension of time is required, or if an additional extension of time is required in addition to that requested in a petition for an extension of time, please grant a petition for that extension of time which is required to make this Response timely, and please charge any fee for such extension to Deposit Account No. 50-0271.

Respectfully submitted,

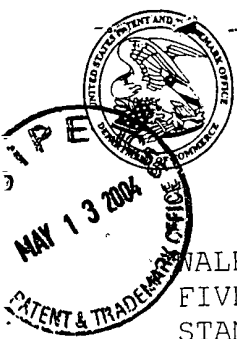
May 11, 2004
Date



Michael D. Downs
Attorney for Applicants
Registration No. 50,252
Mdowns@walkerdigital.com
(203) 461-7292/voice
(203) 461-7300/fax

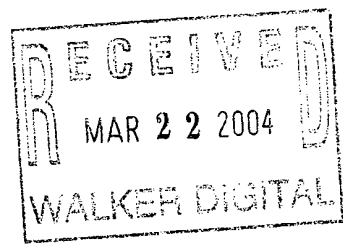
Heard Video Poker Session Play

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MAR 19 2004
OFFICE OF PETITIONS

WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD CT 06905

In re Application of :
Walker, Jorasch, Fincham, Krantz, : DECISION REFUSING STATUS
Garcia, Gelman, Tedesco, and Tulley: UNDER 37 CFR 1.47(a)
Application No. 10/619,066 :
Filed: 14 July, 2003 :
Atty Docket No. 03-041 :

This is in response to the petition filed under 37 CFR 1.47(a) on 20 January, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of ✓
Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor.
FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.
Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 14 July, 2003, without an executed oath or declaration. Accordingly, on 14 October, 2003, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on 20 January, 2004 (certificate of mailing date 14 January, 2004), petitioners filed a declaration naming Jay S. Walker, James A. Jorasch, Magdalena M. Fincham, Jason Krantz, Victor M. Garcia, Geoffrey M. Gelman, Daniel E. Tedesco, and Stephen C. Tully as joint inventors, signed by all joint inventors except Garcia on behalf of themselves and on behalf of joint inventor Garcia, the present petition, petition fee, and the late-filing surcharge.

Petitioners state that joint inventor Garcia refused by telephone to sign any documents related to the application.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of \$130 or \$65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1).

In regards to item (1), petitioners have not provided proof that joint inventor Garcia was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact. While petitioners have presented an affidavit attesting to an unwillingness on the part of Garcia to join in the filing of the application papers, Garcia must nonetheless must be afforded an opportunity to review the application papers. Petitioners should send or give the non-signing inventors a copy of the application papers as specified above at their respective last known addresses with a request that they sign and return the declaration.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (703) 872-9306
 Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
 2011 South Clark Place
 Customer Window
 Crystal Plaza 2, Lobby, Room 1B03
 Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

AFFIDAVIT OF MICHAEL D. BRINTON

I am employed at Walker Digital Management, LLC as a patent paralegal.

On September 25, 2003, I called and left a detailed telephone message for Victor M. Garcia at his last known home telephone number of (203) 624-3536. In my message, I requested that Victor call me to follow up regarding the status of his signature on the Declaration presented to him by Veronika Leliever on or around August 28, 2003. I provided my telephone number in this message. Victor M. Garcia did not return my call.

On October 30, 2003, I called and left another detailed telephone message for Victor M. Garcia at his last known home telephone number of (203) 624-3536. In my message, I requested that Victor call me to follow up regarding the status of his signature on the Declaration presented to him by Veronika Leliever on or around August 28, 2003. I provided my telephone number in this message. Victor M. Garcia did not return my call.

On December 1, 2003, I called and left another detailed telephone message for Victor M. Garcia at his last known home telephone number of (203) 624-3536. In my message, I requested that Victor call me to follow up regarding the status of his signature on the Declaration presented to him by Veronika Leliever on or around August 28, 2003. I provided my telephone number in this message. Victor M. Garcia did not return my call.

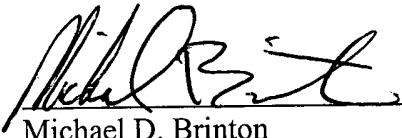
On January 14, 2004, Victor M. Garcia placed a telephone call to me regarding my request for his signatures on documents pertaining to the present application, and other Walker Digital applications. In our conversation, Mr. Garcia unequivocally indicated that he is unwilling to cooperate in signing any documents pertaining to Walker Digital cases on which he is a named inventor.

On March 23, 2004, I prepared and sent via certified, return receipt mail to Victor M. Garcia at what was then his last known address: 315 Willow Street, New Haven, CT 06511, a package containing the following documents: 1) Cover letter 2) Copy of Application with Formal Drawings; 3) Combined Declaration and Power of Attorney; 4) Assignment; and 5) Self addressed stamped envelope for return to me. The cover letter included instructions to sign certain documents and return the same to me. The cover letter also included my telephone number, should he require assistance. The cover letter further stated that should Applicants not hear from Victor M. Garcia by April 23, 2004, Applicants would construe his conduct as a refusal to sign and proceed with filing the Declaration and Assignment attesting that Victor M. Garcia refused to sign these papers. Victor M. Garcia did not return any of these documents to me, nor did he contact me in any way.

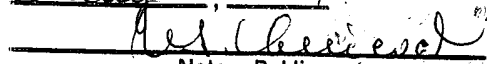
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Declaration presented to him by Veronika Leliever on or around August 28, 2003, and again mailed to his home on March 23, 2004. I provided my telephone number in this message. Victor M. Garcia did not return my call.

On May 3, 2004 I called Victor M. Garcia at his last known home telephone number of (203) 624-3536. Victor M. Garcia answered the telephone. I inquired about the status of the documents presented to him by Veronika Leliever on or around August 28, 2003, and again mailed to his home on March 23, 2004. Victor M. Garcia indicated to me that he is unwilling to sign the documents presented to him by Veronika Leliever on or around August 28, 2003, and again mailed to his home on March 23, 2004. Additionally, he indicated that he is unwilling to cooperate in signing any documents pertaining to Walker Digital in the future.



Michael D. Brinton
May 10, 2004

Subscribed and Sworn to before me, a Notary
Public, in and for County of Fairfield
and State of Connecticut, this 10th day of
May, 2004

Notary Public
My Commission Expires Aug. 31, 2007

AFFIDAVIT OF VERONIKA S. LELIEVER

I am employed at Walker Digital Management, LLC as senior patent paralegal.

On or around August 28, 2003, I met with Victor M. Garcia and requested that he execute an Assignment and Declaration for the present case. In our meeting, I provided him with the following: 1) a Copy of the Application with Formal Drawings; 2) Combined Declaration and Power of Attorney; and 3) an Assignment. Victor M. Garcia executed the Assignment.

Victor M. Garcia stated that he would not sign the Declaration until he consulted with his attorney. Victor M. Garcia has not called me, or contacted me since that time.

Veronika S. Leliever
Veronika S. Leliever
May 10, 2004

Subscribed and sworn to before me
this 10th day of May, 2004
Michael D. Brinton
NOTARY PUBLIC
DATE COMMISSION EXPIRES 1/31/07

MICHAEL D. BRINTON
NOTARY PUBLIC
MY COMMISSION EXPIRES JAN. 31, 2007

EXHIBIT A

WALKER
Digital
MANAGEMENT LLC

Application Serial No.: 10/619,066
Attorney Docket No.: 03-041



March 23, 2004

Mr. Victor M. Garcia
315 Willow Street
New Haven, CT 06511

COPY

Re: Jay S. WALKER et al.

**Titled: " METHODS AND APPARATUS FOR REPRESENTING PLAY IN A
REVERSED MODE"**

Walker Digital Case No.: 03-010

Jay S. WALKER et al.

Titled: " METHOD AND APPARATUS FOR SETTING GAME PARAMETERS"

Walker Digital Case No.: 03-011

Jay S. WALKER et al.

**Titled: " METHOD AND APPARATUS FOR ALTERNATE DISPLAY
INFORMATION"**

Walker Digital Case No.: 03-013

Jay S. WALKER et al.

**Titled: " METHOD AND APPARATUS FOR PROVIDING REGULAR ENTRANCE
INTO A BONUS GAME"**

Walker Digital Case No.: 03-026

Jay S. WALKER et al.

Titled: " METHOD AND SYSTEM FOR VIDEO POKER"

Walker Digital Case No.: 03-041

Dear Max:

Enclosed please find a Declaration and Power of Attorney, Assignment of Rights, Title and Interest in Invention, and Application with drawings for each of the above-referenced cases.

Kindly sign and date, in blue ink, the Declarations and Powers of Attorney and the Assignments where indicated with the post-it flags. Please remember that *your signature on the Assignments must be notarized*. Please note that the Applications are for your reference only and are not to be returned to Walker Digital. Upon execution, please return the signed documents in the self-addressed envelope provided for your convenience.

Walker Digital Management, LLC

203/461.7000 main

203/461.7203 fax

www.walkerdigital.com

Five High Ridge Park
Stamford, CT 06905

Victor M. Garcia
March 23, 2004
Page 2

Should we not hear from you by April 23rd 2004, Applicants will construe your conduct as a refusal to sign, and file the Declarations and Assignments with an Affidavit attesting that you refuse to sign these papers.

Should you have a need for assistance, please call me at (203) 461-7246. Thank you for your cooperation.

All the best,

A handwritten signature in black ink, appearing to read "Michael Brinton", with a stylized flourish at the end.

Michael D. Brinton
Patent Paralegal
mbrinton@walkerdigital.com

Enclosures

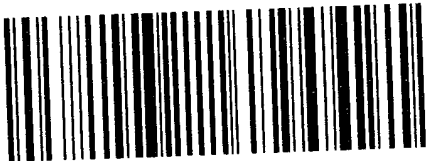


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Victor M. Garcia
Street, Apt. No., 315 Willow St.
or PO Box No.
City, State, ZIP
New Haven, CT 06511

PS Form 3800, June 2002

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Mr. Victor M. Garcia
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03-041 03-011
03-006 2343 03-010

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- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Victor M. Garcia
315 Willow Street
New Haven, CT 06511

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☒ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

7003 2260 0002 6444 8181

PS Form 3811, August 2001

Domestic Return Receipt

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